

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No.
10-cr-93-01-SM

Sean Brown

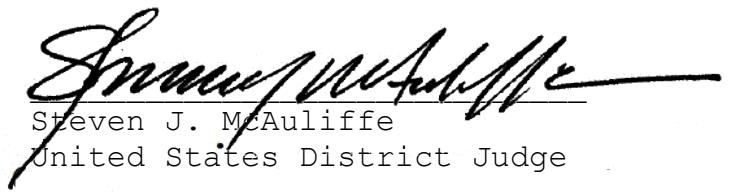
ORDER

Re: Document No. 157, Motion for Withdrawal of Plea

Ruling: Granted. As discussed at the hearing on defendant's motion, he does raise one meritorious claim - and offers a "fair and just reason" to withdraw his pleas of guilty. That is, defendant says he was, through no fault of his own, unaware of the court's ruling on his motion in limine seeking to preclude the government from introducing similar conduct evidence (possession of drugs with intent to distribute) during its case in chief (which motion was granted before his pleas). He only learned of the ruling after his pleas were accepted, but before sentencing, and he made a reasonably timely motion to withdraw. While it is arguable whether the ruling in defendant's favor substantially alters the government's prospects of proving the charged offenses beyond a reasonable doubt at trial, defendant credibly claims that had he been aware of the ruling, his own assessment of the risks of trial in this case would have been materially different, and he would have put the government to its proof, rather than enter pleas of guilty. Under those circumstances, I find that defendant has given a "fair and just reason" to withdraw his pleas at this stage. While this case has a long history, it should be noted that the current operative indictment is actually fairly recent, and so, the apparent length

of the overall delay should not enure to defendant's detriment.

Date: July 8, 2013



Steven J. McAuliffe
United States District Judge

cc: Sean Brown
Liam Scully, Esq.
Seth Aframe, Esq.
Jennifer Davis, Esq.